

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Kelvin Sharod Addison,)	C/A No.: 1:15-571-SB-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Corporal Steven Moore,)	
)	
Defendant.)	
)	

Kelvin Sharod Addison (“Plaintiff”), proceeding pro se and in forma pauperis, filed this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights by Corporal Steven Moore (“Defendant”). This matter comes before the court on Plaintiff’s motions to produce [ECF No. 32] and to compel [ECF No. 39] and on Defendant’s motion to compel [ECF No. 33].

I. Plaintiff’s Motions to Produce and to Compel

Plaintiff filed a motion to produce on June 24, 2015 [ECF No. 32], requesting information and documents from Defendant. Pursuant to Fed. R. Civ. P. 33 and 34, interrogatories and requests for production need not be filed with the court. Plaintiff’s motion to produce is, therefore, denied.

Defendant construed Plaintiff’s motion to produce as discovery requests and served responses to the requests on July 22, 2015 [ECF No. 44-2], and supplemental responses on August 24, 2015 [ECF No. 44-3]. Defendant provided responsive documents or answers to Requests 1, 2, 5, 8, 13, 14, 16, 18, and 19 [ECF No. 44-2] and supplemented answers to Requests 1, 3, 4, 6, 7, 12, and 14 [ECF No. 44-3]. Plaintiff

appears to request additional information, but fails to provide argument as to why he believes the information provided by Defendant was insufficient. For example, Defendant responded to Request 2, which sought statements of witnesses, by producing statements of Defendant and Sgt. Lippe. [ECF No. 44-2 at 2]. Plaintiff does not acknowledge that Defendant responded to the request and asks for an affidavit from Defendant if no such witness statements exist. [ECF No. 39 at 2].

Defendant responded that he does not have documents responsive to Request 9 [ECF No. 44 at 2; 44-2 at 5]. Requests 10–13 seek information that is more akin to legal analysis, which is not a matter for discovery. Defendant has specified that he does not have documents responsive to Request 14–15. [ECF No. 44 at 3; 44-2 at 6–7]. Request 17 seeks all documentation related to allegations of unreasonable force at Kershaw Correctional Institution since January 2013. Plaintiff has not shown how such information is relevant to whether Defendant used excessive force against him in the instant case. Plaintiff seeks a copy of the South Carolina Department of Corrections’ use of force policy in Request 18, and Defendant argues producing such policy creates a security risk. Plaintiff argues he needs the policy to show Defendant did not correctly complete the report on the use of force in the instant case. Whether Defendant correctly complied with SCDC’s use of force policy is not relevant to whether he used excessive force in violation of Plaintiff’s constitutional rights. *See Keeler v. Pea*, 782 F. Supp. 42, 44 (D.S.C. 1992) (holding violations of prison policies that fail to reach the level of a constitutional violation are not actionable under § 1983). Because Plaintiff has failed to show that Defendant withheld documents or information to which he is entitled, the

undersigned denies Plaintiff's motion to compel [ECF No. 39].

II. Defendant's Motion to Compel

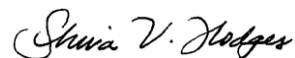
Defendant filed his motion to compel on June 26, 2015. [ECF No. 33]. Defendant states he served his First Set of Interrogatories and Request for Production on Plaintiff on May 19, 2015, and Plaintiff has failed to respond to the requests. *Id.* Plaintiff failed to file a response to Defendant's motion to compel. Therefore, Defendant's motion to compel is granted and Plaintiff is directed to respond to Defendant's First Set of Interrogatories and Request for Production by September 8, 2015.

III. Conclusion

For the foregoing reasons, Plaintiff's motion to produce [ECF No. 32] and motion to compel [ECF No. 39] are denied and Defendant's motion to compel [ECF No. 33] is granted.

IT IS SO ORDERED.

August 25, 2015
Columbia, South Carolina



Shiva V. Hodges
United States Magistrate Judge